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DIVISION OF INTERNATIONAL LAW


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THE HAGUE CONVENTION (XII) OF 1907  
RELATIVE TO THE CREATION OF AN  
INTERNATIONAL PRIZE COURT

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## Preface

In view of the very great interest at the present time in the Conventions and signed Declarations of the First and Second Hague Conferences, and particularly because of the need of accurate information as to ratifications of and adhesions to the Conventions and Declarations relating to war, the Endowment has prepared a series of pamphlets in order that the public may learn from reliable sources the status of these international agreements and the extent to which the Powers now at war are bound by their provisions.

The first pamphlet of this series (No. 3 of the pamphlet series of the Division of International Law) contains the respective Tables of Signatures, Ratifications, Adhesions and Reservations of the Conventions and Declarations of the two Conferences. The compilation has been made from official sources, and the tables have been certified as accurate by the Department of State of the United States. In all cases the reservations contained in the *procès-verbaux*, but only referred to in the official tables issued by the International Bureau of the Permanent Court of Arbitration, have been translated and printed in full, with the references to the official reports where their texts appear. Without the complete text of a reservation it is impossible to know to what extent a Power is bound by a Convention or Declaration.

The Conventions and Declarations, as the case may be, of the two Conferences, are printed separately in the succeeding numbers of the pamphlets, accompanied by the respective lists of countries which have (a) *ratified*, or (b) *adhered to*, or (c) *signed but not ratified* them, with the date of the particular action taken. Each Convention or Declaration is followed also by the texts of reservations, as indicated above respecting the pamphlet containing the Tables of Signatures, Ratifications, etc. (No. 3). The English translations of the original French texts of the several Conventions, Declarations and Final Acts of the Conferences reproduce the official translations of the Department of State, except that a few obvious misprints, and an occasional mistranslation, have been corrected. Marginal notes have been added to facilitate reference.

Inasmuch as most of the Conventions and Declarations of the Conferences concerning war contain a clause to the effect that they only bind belligerents which have ratified them, and then only if all the belligerents are contracting Powers, there is appended a list of the countries now at war and the dates of the formal declarations or announcements of the existence of a state of war.

It should be noted that the Conventions and Declarations are not binding prior to the deposit of ratifications at The Hague. The mere signature of these conventional agreements may be regarded as the indication of an intention to ratify them, but creates no legal obligation. Adhesion has the effect of ratification. In this relation it is proper to remark that only the formal agreements of the Conferences—such as the Conventions and the signed Declarations—contemplate ratification. The informal agreements—such as the unsigned Declarations, Resolutions, Recommendations, and *Vaux*—are not signed separately. They are contained in the Final Act, which is an official summary of the proceedings of each Conference, and as such is signed.

A word should be said about the additional protocol to the Convention for an International Prize Court. It was not agreed upon at the Second Hague Conference, but was subsequently negotiated in order to remove objections to the Prize Court Convention. The signatures to it are indicated in the last column of the table of signatures of the Second Conference.

The Conventions and Declarations are numbered as in the Final Acts.

The official published proceedings of the First Conference are referred to in the footnotes as *Procès-verbaux*, those of the Second as *Actes et documents*. The full titles of the publications are respectively: (1) *Conférence internationale de la paix. La Haye, 18 mai-29 juillet, 1899. Ministère des affaires étrangères. Nouvelle édition. La Haye. Martinus Nijhoff, 1907*; (2) *Deuxième conférence internationale de la paix. La Haye, 15 juin-18 octobre, 1907. Actes et documents. Ministère des affaires étrangères. La Haye, imprimerie nationale, 1907.*

JAMES BROWN SCOTT,  
*Director of the Division of International Law.*

WASHINGTON, D. C.,  
December 23, 1914.



## CONVENTION (XII) RELATIVE TO THE CREATION OF AN INTERNATIONAL PRIZE COURT

Signed at The Hague, October 18, 1907

His Majesty, the German Emperor, King of Prussia; [etc.] :

Animated by the desire to settle in an equitable manner the differences which sometimes arise in the course of a naval war in connection with the decisions of national prize courts; Purpose of Convention.

Considering that, if these courts are to continue to exercise their functions in the manner determined by national legislation, it is desirable that in certain cases an appeal should be provided under conditions conciliating, as far as possible, the public and private interests involved in matters of prize;

Whereas, moreover, the institution of an International Court, whose jurisdiction and procedure would be carefully defined, has seemed to be the best method of attaining this object;

Convinced, finally, that in this manner the hardships consequent on naval war would be mitigated; that, in particular, good relations will be more easily maintained between belligerents and neutrals and peace better assured;

Desirous of concluding a Convention to this effect, have appointed the following as their plenipotentiaries: Plenipotentiaries.

[Here follow the names of plenipotentiaries.]

Who, after depositing their full powers, found in good and due form, have agreed upon the following provisions:

### PART I.—GENERAL PROVISIONS

General provisions.

#### ARTICLE 1

The validity of the capture of a merchant ship or its cargo is decided before a prize court in accordance with the present Convention when neutral or enemy property is involved. Determination of validity of capture.

## ARTICLE 2

Jurisdiction in  
first instance.

Jurisdiction in matters of prize is exercised in the first instance by the prize courts of the belligerent captor.

The judgments of these courts are pronounced in public or are officially notified to parties concerned who are neutrals or enemies.

## ARTICLE 3

When judgments of  
national courts  
may be brought  
before International  
Court.

The judgments of national prize courts may be brought before the International Prize Court—

1. When the judgment of the national prize courts affects the property of a neutral Power or individual;

2. When the judgment affects enemy property and relates to—

(a) Cargo on board a neutral ship;

(b) An enemy ship captured in the territorial waters of a neutral Power, when that Power has not made the capture the subject of a diplomatic claim;

(c) A claim based upon the allegation that the seizure has been effected in violation, either of the provisions of a Convention in force between the belligerent Powers, or of an enactment issued by the belligerent captor.

Basis of  
appeal.

The appeal against the judgment of the national court can be based on the ground that the judgment was wrong either in fact or in law.

## ARTICLE 4

When appeal  
may be brought:  
1. By a neutral  
Power.

An appeal may be brought—

1. By a neutral Power, if the judgment of the national tribunals injuriously affects its property or the property of its nationals (Article 3, No. 1), or if the capture of an enemy vessel is alleged to have taken place in the territorial waters of that Power (Article 3, No. 2b).

2. By a neutral  
individual.

2. By a neutral individual, if the judgment of the national court injuriously affects his property (Article 3, No. 1), subject, however, to the reservation that the Power to which he belongs may forbid him to bring the case before the Court, or may itself undertake the proceedings in his place;

3. By citizen  
of enemy  
Power.

3. By an individual subject or citizen of an enemy Power, if the judgment of the national court injuriously affects his property in the cases referred to in Article 3, No. 2, except that mentioned in paragraph b.



## ARTICLE 5

An appeal may also be brought on the same conditions as in the preceding article, by persons belonging either to neutral States or to the enemy, deriving their rights from and entitled to represent an individual qualified to appeal, and who have taken part in the proceedings before the national court. Persons so entitled may appeal separately to the extent of their interest.

Successors  
in interest.

The same rule applies in the case of persons belonging either to neutral States or to the enemy who derive their rights from and are entitled to represent a neutral Power whose property was the subject of the decision.

## ARTICLE 6

When, in accordance with the above Article 3, the International Court has jurisdiction, the national courts can not deal with a case in more than two instances. The municipal law of the belligerent captor shall decide whether the case may be brought before the International Court after judgment has been given in first instance or only after an appeal.

Limitation  
upon jurisdic-  
tion of na-  
tional courts.

If the national courts fail to give final judgment within two years from the date of capture, the case may be carried direct to the International Court.

Failure of  
national courts  
to give final  
judgment.

## ARTICLE 7

If a question of law to be decided is covered by a treaty in force between the belligerent captor and a Power which is itself or whose subject or citizen is a party to the proceedings, the Court is governed by the provisions of the said treaty.

Law applicable.  
Treaties.

In the absence of such provisions, the Court shall apply the rules of international law. If no generally recognized rule exists, the Court shall give judgment in accordance with the general principles of justice and equity.

Rules of  
international  
law.

Principles  
of justice  
and equity.

The above provisions apply equally to questions relating to the order and mode of proof.

If, in accordance with Article 3, No. 2c, the ground of appeal is the violation of an enactment issued by the belligerent captor, the Court will enforce the enactment.

Enactments  
of belligerent  
captor.

The Court may disregard failure to comply with the procedure laid down in the enactments of the belligerent captor, when it is of opinion

that the consequences of complying therewith are unjust and inequitable.

#### ARTICLE 8<sup>1</sup>

Disposition of  
vessel and  
cargo when  
capture is valid;

If the Court pronounces the capture of the vessel or cargo to be valid, they shall be disposed of in accordance with the laws of the belligerent captor.

when capture  
is null

If it pronounces the capture to be null, the Court shall order restitution of the vessel or cargo, and shall fix, if there is occasion, the amount of the damages. If the vessel or cargo have been sold or destroyed, the Court shall determine the compensation to be given to the owner on this account.

If the national court pronounced the capture to be null, the Court can only be asked to decide as to the damages.

#### ARTICLE 9

Powers to  
submit to  
decisions.

The contracting Powers undertake to submit in good faith to the decisions of the International Prize Court and to carry them out with the least possible delay.

Constitution  
of court.

### PART II.—CONSTITUTION OF THE INTERNATIONAL PRIZE COURT

#### ARTICLE 10

Personnel and  
qualifications  
of members  
of Court.

The International Prize Court is composed of judges and deputy judges, who will be appointed by the contracting Powers, and must all be jurists of known proficiency in questions of international maritime law, and of the highest moral reputation.

The appointment of these judges and deputy judges shall be made within six months after the ratification of the present Convention.

#### ARTICLE 11

Term of  
service  
of judges.

The judges and deputy judges are appointed for a period of six years, reckoned from the date on which the notification of their appointment is received by the Administrative Council established by the Convention for the pacific settlement of international disputes of the 29th July, 1899. Their appointments can be renewed.

<sup>1</sup>See Article 2 of the Additional Protocol, *post*, p. 19.

Should one of the judges or deputy judges die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case, the appointment is made for a fresh period of six years. Vacancies.

#### ARTICLE 12

The judges of the International Prize Court are all equal in rank and have precedence according to the date on which the notification of their appointment was received (Article 11, paragraph 1), and if they sit by rota (Article 15, paragraph 2), according to the date on which they entered upon their duties. When the date is the same the senior in age takes precedence. Rank  
of judges.

The deputy judges when acting are assimilated to the judges. They rank, however, after them.

#### ARTICLE 13

The judges enjoy diplomatic privileges and immunities in the performance of their duties and when outside their own country. Privileges  
and immunities.

Before taking their seat, the judges must swear, or make a solemn promise before the Administrative Council, to discharge their duties impartially and conscientiously. Oath.

#### ARTICLE 14

The Court is composed of fifteen judges; nine judges constitute a quorum. Number  
of judges.

A judge who is absent or prevented from sitting is replaced by the deputy judge.

#### ARTICLE 15<sup>1</sup>

The judges appointed by the following contracting Powers: Germany, the United States of America, Austria-Hungary, France, Great Britain, Italy, Japan, and Russia, are always summoned to sit. Judges who  
are always  
summoned  
to sit.

The judges and deputy judges appointed by the other contracting Powers sit by rota as shown in the table annexed<sup>2</sup> to the present Convention; their duties may be performed successively by the same person. The same judge may be appointed by several of the said Powers. Judges who  
sit by rota.

<sup>1</sup>Reservation of this article was made by Chile, Cuba, Ecuador, Guatemala, Haiti, Persia, Salvador, Siam, Turkey and Uruguay.

<sup>2</sup>*Post*, p. 16.

## ARTICLE 16

Selection of  
judge by  
belligerent  
Power.

If a belligerent Power has, according to the rota, no judge sitting in the Court, it may ask that the judge appointed by it should take part in the settlement of all cases arising from the war. Lots shall then be drawn as to which of the judges entitled to sit according to the rota shall withdraw. This arrangement does not affect the judge appointed by the other belligerent.

## ARTICLE 17

Disqualification  
of a judge.

No judge can sit who has been a party, in any way whatever, to the sentence pronounced by the national courts, or has taken part in the case as counsel or advocate for one of the parties.

No judge or deputy judge can, during his tenure of office, appear as agent or advocate before the International Prize Court nor act for one of the parties in any capacity whatever.

## ARTICLE 18

Belligerent  
captor or  
interested  
neutral may  
appoint  
assessor.

The belligerent captor is entitled to appoint a naval officer of high rank to sit as assessor, but with no voice in the decision. A neutral Power, which is a party to the proceedings or whose subject or citizen is a party, has the same right of appointment; if as the result of this last provision more than one Power is concerned, they must agree among themselves, if necessary by lot, on the officer to be appointed.

## ARTICLE 19

Election  
of officers.

The Court elects its president and vice-president by an absolute majority of the votes cast. After two ballots, the election is made by a bare majority, and, in case the votes are equal, by lot.

## ARTICLE 20

Compensation  
of judges.

The judges on the International Prize Court are entitled to traveling allowances in accordance with the regulations in force in their own country, and in addition receive, while the Court is sitting or while they are carrying out duties conferred upon them by the Court, a sum of 100 Netherland florins *per diem*.

These payments are included in the general expenses of the Court dealt with in Article 47, and are paid through the International Bureau established by the Convention of the 29th July, 1899.

The judges may not receive from their own Government or from that of any other Power any remuneration in their capacity of members of the Court.

#### ARTICLE 21

The seat of the International Prize Court is at The Hague and it can not, except in the cases of *force majeure*, be transferred elsewhere without the consent of the belligerents.

Seat of  
the Court.

#### ARTICLE 22

The Administrative Council fulfils, with regard to the International Prize Court, the same functions as to the Permanent Court of Arbitration, but only representatives of contracting Powers will be members of it.

Administrative  
functions of  
Administrative  
Council.

#### ARTICLE 23

The International Bureau acts as registry to the International Prize Court and must place its offices and staff at the disposal of the Court. It has charge of the archives and carries out the administrative work.

International  
Bureau acts  
as registry.

The secretary general of the International Bureau acts as registrar.

The necessary secretaries to assist the registrar, translators and shorthand writers are appointed and sworn in by the Court.

#### ARTICLE 24

The Court determines which language it will itself use and what languages may be used before it.

Language  
used in  
proceedings.

In every case the official language of the national courts which have had cognizance of the case may be used before the Court.

#### ARTICLE 25

Powers which are concerned in a case may appoint special agents to act as intermediaries between themselves and the Court. They may also engage counsel or advocates to defend their rights and interests.

Powers may  
appoint agents  
and counsel.



## ARTICLE 26

Attorneys for  
private  
individuals.

A private person concerned in a case will be represented before the Court by an attorney, who must be either an advocate qualified to plead before a court of appeal or a high court of one of the contracting States, or a lawyer practising before a similar court, or lastly, a professor of law at one of the higher teaching centers of those countries.

## ARTICLE 27

How notices  
are to be  
served.

For all notices to be served, in particular on the parties, witnesses, or experts, the Court may apply direct to the Government of the State on whose territory the service is to be carried out. The same rule applies in the case of steps being taken to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the Power applied to under its municipal law allow. They can not be rejected unless the Power in question considers them calculated to impair its sovereign rights or its safety. If the request is complied with, the fees charged must only comprise the expenses actually incurred.

The Court is equally entitled to act through the Power on whose territory it sits.

Notices to be given to parties in the place where the Court sits may be served through the International Bureau.

Procedure  
in the court.

## PART III.—PROCEDURE IN THE INTERNATIONAL PRIZE COURT

ARTICLE 28<sup>1</sup>

Method and  
time of en-  
tering appeal.

An appeal to the International Prize Court is entered by means of a written declaration made in the national court which has already dealt with the case or addressed to the International Bureau; in the latter case the appeal can be entered by telegram.

The period within which the appeal must be entered is fixed at 120 days, counting from the day the decision is delivered or notified (Article 2, paragraph 2).

ARTICLE 29<sup>2</sup>

If the notice of appeal is entered in the national court, this Court, without considering the question whether the appeal was entered in

Transmission  
of record to  
International  
Bureau.

<sup>1</sup>See Article 5 of the Additional Protocol, *post*, p. 19.

<sup>2</sup>See Article 6 of the Additional Protocol, *post*, p. 20.



due time, will transmit within seven days the record of the case to the International Bureau.

If the notice of the appeal is sent to the International Bureau, the Bureau will immediately inform the national court, when possible by telegraph. The latter will transmit the record as provided in the preceding paragraph.

When the appeal is brought by a neutral individual the International Bureau at once informs by telegraph the individual's Government, in order to enable it to enforce the rights it enjoys under Article 4, paragraph 2.

#### ARTICLE 30

In the case provided for in Article 6, paragraph 2, the notice of appeal can be addressed to the International Bureau only. It must be entered within thirty days of the expiration of the period of two years.

Appeal when national courts fail to give final judgment.

#### ARTICLE 31

If the appellant does not enter his appeal within the period laid down in Articles 28 or 30, it shall be rejected without discussion.

Late appeal may be rejected.

Provided that he can show that he was prevented from so doing by *force majeure*, and that the appeal was entered within sixty days after the circumstances which prevented him entering it before had ceased to operate, the Court can, after hearing the respondent, grant relief from the effect of the above provision.

#### ARTICLE 32

If the appeal is entered in time, a certified copy of the notice of appeal is forthwith officially transmitted by the Court to the respondent.

Copy of appeal is sent to respondent.

#### ARTICLE 33

If, in addition to the parties who are before the Court, there are other parties concerned who are entitled to appeal, or if, in the case referred to in Article 29, paragraph 3, the Government who has received notice of an appeal has not announced its decision, the Court will await before dealing with the case the expiration of the period laid down in Articles 28 or 30.

Appeal of other parties.

## ARTICLE 34

Pleadings  
and argument.

The procedure before the International Court includes two distinct parts: the written pleadings and oral discussions.

The written pleadings consist of the deposit and exchange of cases, counter-cases, and, if necessary, of replies, of which the order is fixed by the Court, as also the periods within which they must be delivered. The parties annex thereto all papers and documents of which they intend to make use.

A certified copy of every document produced by one party must be communicated to the other party through the medium of the Court.

## ARTICLE 35

Public sitting.

After the close of the pleadings, a public sitting is held on a day fixed by the Court.

At this sitting the parties state their view of the case both as to the law and as to the facts.

The Court may, at any stage of the proceedings, suspend speeches of counsel, either at the request of one of the parties, or on their own initiative, in order that supplementary evidence may be obtained.

## ARTICLE 36

Supplementary  
evidence.

The International Court may order the supplementary evidence to be taken either in the manner provided by Article 27, or before itself, or one or more of the members of the Court, provided that this can be done without resort to compulsion or the use of threats.

If steps are to be taken for the purpose of obtaining evidence by members of the Court outside the territory where it is sitting, the consent of the foreign Government must be obtained.

## ARTICLE 37

Parties sum-  
moned for  
every stage  
of proceedings.

The parties are summoned to take part in all stages of the proceedings and receive certified copies of the minutes.

## ARTICLE 38

Discussions  
controlled  
by president.

The discussions are under the control of the president or vice-president, or, in case they are absent or can not act, of the senior judge present.

The judge appointed by a belligerent party can not preside.

## ARTICLE 39

The discussions take place in public, subject to the right of a Government who is a party to the case to demand that they be held in private. Discussions public.

Minutes are taken of these discussions and signed by the president and registrar, and these minutes alone have an authentic character. Minutes.

## ARTICLE 40

If a party does not appear, despite the fact that he has been duly cited, or if a party fails to comply with some step within the period fixed by the Court, the case proceeds without that party, and the Court gives judgment in accordance with the material at its disposal. Result of failure of party to appear.

## ARTICLE 41

The Court officially notifies to the parties decrees or decisions made in their absence. Notification of decrees or decisions.

## ARTICLE 42

The Court takes into consideration in arriving at its decision all the facts, evidence, and oral statements. Matters considered in arriving at decision.

## ARTICLE 43

The Court considers its decision in private and the proceedings are secret. Manner of making decisions.

All questions are decided by a majority of the judges present. If the number of judges is even and equally divided, the vote of the junior judge in the order of precedence laid down in Article 12, paragraph 1, is not counted.

## ARTICLE 44

The judgment of the Court must give the reasons on which it is based. It contains the names of the judges taking part in it, and also of the assessors, if any; it is signed by the president and registrar. Reasons for judgment.

ARTICLE 45<sup>1</sup>

The sentence is pronounced in public sitting, the parties concerned being present or duly summoned to attend; the sentence is officially communicated to the parties. Method of pronouncing sentence.

<sup>1</sup>See Article 7 of the Additional Protocol, *post*, p. 20.

When this communication has been made, the Court transmits to the national prize court the record of the case, together with copies of the various decisions arrived at and of the minutes of the proceedings.

#### ARTICLE 46

Payment  
of costs.

Each party pays its own costs.

The party against whom the Court decides bears, in addition, the costs of the trial, and also pays 1 per cent of the value of the subject-matter of the case as a contribution to the general expenses of the International Court. The amount of these payments is fixed in the judgment of the Court.

If the appeal is brought by an individual, he will furnish the International Bureau with security to an amount fixed by the Court, for the purpose of guaranteeing eventual fulfilment of the two obligations mentioned in the preceding paragraph. The Court is entitled to postpone the opening of the proceedings until the security has been furnished.

#### ARTICLE 47

General  
expenses  
of Court.

The general expenses of the International Prize Court are borne by the contracting Powers in proportion to their share in the composition of the Court as laid down in Article 15 and in the annexed table.<sup>1</sup> The appointment of deputy judges does not involve any contribution.

The Administrative Council applies to the Powers for the funds requisite for the working of the Court.

#### ARTICLE 48

Performance  
of duties  
when Court  
is not sitting.

When the Court is not sitting, the duties conferred upon it by Article 32, Article 34, paragraphs 2 and 3, Article 35, paragraph 1, and Article 46, paragraph 3, are discharged by a delegation of three judges appointed by the Court. This delegation decides by a majority of votes.

#### ARTICLE 49

Rules of  
procedure.

The Court itself draws up its own rules of procedure, which must be communicated to the contracting Powers.

It will meet to elaborate these rules within a year of the ratification of the present Convention.

<sup>1</sup>*Post*, p. 16.

## ARTICLE 50

The Court may propose modifications in the provisions of the present Convention concerning procedure. These proposals are communicated, through the medium of the Netherland Government, to the contracting Powers, which will consider together as to the measures to be taken.

Modifications  
in present  
Convention.

## PART IV.—FINAL PROVISIONS

Final  
provisions.

## ARTICLE 51

The present Convention does not apply as of right except when the belligerent Powers are all parties to the Convention.

Applicability  
of Convention.

It is further fully understood that an appeal to the International Prize Court can only be brought by a contracting Power or the subject or citizen of a contracting Power.

In the cases mentioned in Article 5, the appeal is only admitted when both the owner and the person entitled to represent him are equally contracting Powers or the subjects or citizens of contracting Powers.

## ARTICLE 52

The present Convention shall be ratified and the ratifications shall be deposited at The Hague as soon as all the Powers mentioned in Article 15 and in the table annexed are in a position to do so.

Ratifications.

The deposit of the ratifications shall take place, in any case, on the 30th June, 1909, if the Powers which are ready to ratify furnish nine judges and nine deputy judges to the Court, qualified to validly constitute a Court. If not, the deposit shall be postponed until this condition is fulfilled.

A minute of the deposit of ratifications shall be drawn up, of which a certified copy shall be forwarded, through the diplomatic channel, to each of the Powers referred to in the first paragraph.<sup>1</sup>

## ARTICLE 53

The Powers referred to in Article 15 and in the table annexed are entitled to sign the present Convention up to the deposit of the ratifications contemplated in paragraph 2 of the preceding article.

Signatures  
and adhesions.

After this deposit, they can at any time adhere to it, purely and

<sup>1</sup>See Article 8 of the Additional Protocol, *post*, p. 20.



simply.<sup>1</sup> A Power wishing to adhere, notifies its intention in writing to the Netherland Government transmitting to it, at the same time, the act of adhesion, which shall be deposited in the archives of the said Government. The latter shall send, through the diplomatic channel, a certified copy of the notification and of the act of adhesion to all the Powers referred to in the preceding paragraph, informing them of the date on which it has received the notification.

#### ARTICLE 54

Effect of  
Convention.

The present Convention shall come into force six months from the deposit of the ratifications contemplated in Article 52, paragraphs 1 and 2.

The adhesions shall take effect sixty days after notification of such adhesion has been received by the Netherland Government, or as soon as possible on the expiration of the period contemplated in the preceding paragraph.

The International Court shall, however, have jurisdiction to deal with prize cases decided by the national courts at any time after the deposit of the ratifications or of the receipt of the notification of the adhesions. In such cases, the period fixed in Article 28, paragraph 2, shall only be reckoned from the date when the Convention comes into force as regards a Power which has ratified or adhered.

#### ARTICLE 55

Duration.

The present Convention shall remain in force for twelve years from the time it comes into force, as determined by Article 54, paragraph 1, even in the case of Powers which adhere subsequently.

Renewal.

It shall be renewed tacitly from six years to six years unless denounced.

Denunciation.

Denunciation must be notified in writing, at least one year before the expiration of each of the periods mentioned in the two preceding paragraphs, to the Netherland Government, which will inform all the other contracting Powers.

Denunciation shall only take effect in regard to the Power which has notified it. The Convention shall remain in force in the case of the other contracting Powers, provided that their participation in the appointment of judges is sufficient to allow of the composition of the Court with nine judges and nine deputy judges.

<sup>1</sup>See Article 9 of the Additional Protocol, *post*, p. 20.



## ARTICLE 56

In case the present Convention is not in operation as regards all the Powers referred to in Article 15 and the annexed table, the Administrative Council shall draw up a list on the lines of that article and table of the judges and deputy judges through whom the contracting Powers will share in the composition of the Court. The times allotted by the said table to judges who are summoned to sit in rota will be redistributed between the different years of the six-year period in such a way that, as far as possible, the number of the judges of the Court in each year shall be the same. If the number of deputy judges is greater than that of the judges, the number of the latter can be completed by deputy judges chosen by lot among those powers which do not nominate a judge.

Selection of  
judges by  
Administra-  
tive Council.

The list drawn up in this way by the Administrative Council shall be notified to the contracting Powers. It shall be revised when the number of these Powers is modified as the result of adhesions or denunciations.

The change resulting from an adhesion is not made until the 1st January after the date on which the adhesion takes effect, unless the adhering Power is a belligerent Power, in which case it can ask to be at once represented in the Court, the provision of Article 16 being, moreover, applicable if necessary.

When the total number of judges is less than eleven, seven judges form a quorum.

## ARTICLE 57

Two years before the expiration of each period referred to in paragraphs 1 and 2 of Article 55 any contracting Power can demand a modification of the provisions of Article 15 and of the annexed table, relative to its participation in the composition of the Court. The demand shall be addressed to the Administrative Council, which will examine it and submit to all the Powers proposals as to the measures to be adopted. The Powers shall inform the Administrative Council of their decision with the least possible delay. The result shall be at once, and at least one year and thirty days before the expiration of the said period of two years, communicated to the Power which made the demand.

Modification  
of Article 15.

When necessary, the modifications adopted by the Powers shall come into force from the commencement of the fresh period.

Signing.

In faith whereof the plenipotentiaries have appended their signatures to the present Convention.

Deposit of original.

Done at The Hague, the 18th October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel to the Powers designed in Article 15 and in the table annexed.

Certified copies to Powers.

[Here follow signatures.]

# ANNEX TO ARTICLE 15

## *Distribution of Judges and Deputy Judges by Countries for Each Year of the Period of Six Years*

JUDGES	DEPUTY JUDGES	JUDGES	DEPUTY JUDGES
<i>First Year</i>		<i>Second Year</i>	
1 Argentine	Paraguay	Argentine	Panama
2 Colombia	Bolivia	Spain	Spain
3 Spain	Spain	Greece	Roumania
4 Greece	Roumania	Norway	Sweden
5 Norway	Sweden	Netherlands	Belgium
6 Netherlands	Belgium	Turkey	Luxemburg
7 Turkey	Persia	Uruguay	Costa Rica
<i>Third Year</i>		<i>Fourth Year</i>	
1 Brazil	Dominican Rep.	Brazil	Guatemala
2 China	Turkey	China	Turkey
3 Spain	Portugal	Spain	Portugal
4 Netherlands	Switzerland	Peru	Honduras
5 Roumania	Greece	Roumania	Greece
6 Sweden	Denmark	Sweden	Denmark
7 Venezuela	Haiti	Switzerland	Netherlands
<i>Fifth Year</i>		<i>Sixth Year</i>	
1 Belgium	Netherlands	Belgium	Netherlands
2 Bulgaria	Montenegro	Chile	Salvador
3 Chile	Nicaragua	Denmark	Norway
4 Denmark	Norway	Mexico	Ecuador
5 Mexico	Cuba	Portugal	Spain
6 Persia	China	Servia	Bulgaria
7 Portugal	Spain	Siam	China

ADDITIONAL PROTOCOL TO THE CONVENTION RELATIVE TO THE  
ESTABLISHMENT OF AN INTERNATIONAL COURT OF PRIZE

Signed at The Hague, September 19, 1910

Germany, the United States of America, the Argentine Republic, Austria-Hungary, Chile, Denmark, Spain, France, Great Britain, Japan, Norway, the Netherlands, Sweden,

Contracting  
Powers.

Powers signatory to the Hague Convention dated October 18, 1907, for the establishment of an International Court of Prize,

Considering that for some of these Powers difficulties of a constitutional nature prevent the acceptance of the said Convention, in its present form,

Have deemed it expedient to agree upon an additional protocol taking into account these difficulties without jeopardizing any legitimate interest and have, to that end, appointed as their plenipotentiaries, to wit:

Germany: His Excellency F. von Müller, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Plenipo-  
tentiaries.

The United States of America: James Brown Scott.

The Argentine Republic: His Excellency Alejandro Guesalaga, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Austria-Hungary: Baron E. Gudenus, Chargé d'Affaires *ad interim* at The Hague.

Belgium: His Excellency Baron Fallon, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Bolivia: His Excellency General Ismael Montes, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Bulgaria: His Excellency Dimitri Stancioff, Envoy Extraordinary and Minister Plenipotentiary in France and Belgium.

Chile: His Excellency F. Puga Borne, Envoy Extraordinary and Minister Plenipotentiary at Paris.

Colombia: His Excellency Ignacio Gutiérrez Ponce, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The Republic of Cuba: Miguel Angel Campa, Chargé d'Affaires *ad interim* at The Hague.

Denmark: J. W. Grevenkop Castenskjold, Minister Resident at The Hague.

Ecuador: His Excellency Victor Manuel Rendón, Envoy Extraordinary and Minister Plenipotentiary at Paris.

Spain: His Excellency José de la Riea y Calvo, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

France: His Excellency Marellin Pellet, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Great Britain: His Excellency Sir George W. Buchanan, G. C. V. O., K. C. M. G., C. B., Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Guatemala: Francisco de Arce, Chargé d'Affaires *ad interim* at The Hague.

Haiti: His Excellency Georges Sylvain, Envoy Extraordinary and Minister Plenipotentiary at Paris.

Italy: His Excellency Count Giuseppe Sallier de la Tour, Duke of Calvello, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Japan: His Excellency Aimaro Sato, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Mexico: His Excellency Enrique Olarte, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Norway: His Excellency G. F. Hagerup, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Panama: Juan Antonio Jiménez, Chargé d'Affaires at The Hague.

Paraguay: Count Georges du Moneau de Bergendal, Consul of Paraguay at Brussels.

The Netherlands: His Excellency Jonkheer R. de Marees van Swinderen, Minister of Foreign Affairs.

Peru: His Excellency Manuel Alvarez Calderón, Envoy Extraordinary and Minister Plenipotentiary in Belgium and Switzerland.

Persia: His Excellency Mirza Ahmed Khan Sadigh ul-Mulk, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Portugal: Carlos Rangel de Sampaio, Chargé d'Affaires *ad interim* at The Hague.

Salvador: John Helsmoortel, Consul General of Salvador in Belgium.

Siam: His Excellency Phya Visutr Kosa, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Sweden: His Excellency Count J. J. A. Ehrensvärd, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Switzerland: Gaston Carlin, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Turkey: His Excellency Aristarchi Bey, Envoy Extraordinary and Minister Plenipotentiary at The Hague.

Uruguay: Virgilio Sampognaro, Chargé d'Affaires at The Hague.

Who, after depositing their full powers, found to be in good and due form, have agreed upon the following:

#### ARTICLE 1

The Powers signatory or adhering to the Hague Convention of October 18, 1907, relative to the establishment of an International Court of Prize, which are prevented by difficulties of a constitutional nature from accepting the said Convention in its present form, have the right to declare in the instrument of ratification or adherence that in prize cases, whereof their national courts have jurisdiction, recourse to the International Court of Prize can only be exercised against them in the form of an action in damages for the injury caused by the capture.

Rights of Powers signatory or adhering to Convention of October 18, 1907.

#### ARTICLE 2

In the case of recourse to the International Court of Prize, in the form of an action for damages, Article 8<sup>1</sup> of the Convention is not applicable; it is not for the Court to pass upon the validity or the nullity of the capture, nor to reserve or affirm the decision of the national tribunals.

In case of an action for damages.

If the capture is considered illegal, the Court determines the amount of damages to be allowed, if any, to the claimants.

Court determines amount to be allowed, if any.

#### ARTICLE 3

The conditions to which recourse to the International Court of Prize is subject by the Convention are applicable to the action in damages.

#### ARTICLE 4

Under reserve of the provisions hereinafter stated the rules of procedure established by the Convention for recourse to the International Court of Prize shall be observed in the action in damages.

Rules of procedure.

#### ARTICLE 5

In derogation of Article 28, paragraph 1, of the Convention, the suit for damages can only be brought before the International Court of

In derogation of Article 28 of Convention.

<sup>1</sup>*Ante*, p. 4.



Prize by means of a written declaration addressed to the International Bureau of the Permanent Court of Arbitration; the case may even be brought before the Bureau by telegram.

#### ARTICLE 6

In derogation  
of Article 29  
of Convention.

In derogation of Article 29 of the Convention the International Bureau shall notify directly, and if possible by telegram, the Government of the belligerent captor of the declaration of action brought before it.

The Government of the belligerent captor, without considering whether the prescribed periods of time have been observed, shall, within seven days of the receipt of the notification, transmit to the International Bureau the case, appending thereto a certified copy of the decision, if any, rendered by the national tribunal.

#### ARTICLE 7

In derogation  
of Article 45  
of Convention.

In derogation of Article 45, paragraph 2, of the Convention the Court rendering its decision and notifying it to the parties to the suit shall send directly to the Government of the belligerent captor the record of the case submitted to it, appending thereto a copy of the various intervening decisions as well as a copy of the minutes of the preliminary proceedings.

#### ARTICLE 8

Present proto-  
col to form  
integral part  
of treaty.

The present additional protocol shall be considered as forming an integral part of and shall be ratified at the same time as the Convention.

If the declaration provided for in Article 1 herein above is made in the instrument of the ratification, a certified copy thereof shall be inserted in the *procès-verbal* of the deposit of ratifications referred to in Article 52, paragraph 3, of the Convention.

#### ARTICLE 9

Adherence.

Adherence to the Convention is subordinated to adherence to the present additional protocol.

Signing.

In faith of which the plenipotentiaries have affixed their signatures to the present additional protocol.



Done at The Hague on the 19th day of September, 1910, in a single copy, which shall remain deposited in the archives of the Government of the Netherlands and of which duly certified copies shall be forwarded through diplomatic channels to the Powers designated in Article 15 of the Convention relative to the establishment of an International Court of Prize of October 18, 1907, and in its appendix.

Deposit of  
original.

Certified copies  
to Powers.

[Here follow signatures.]

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#### SIGNATURES AND RESERVATIONS <sup>1</sup>

Both the 1907 Convention and the 1910 Additional Protocol have been signed by the following Powers:

Argentine Republic	Mexico
Austria-Hungary	Netherlands
Belgium	Norway
Bolivia	Panama
Bulgaria	Paraguay
Chile	Persia
Colombia	Peru
Cuba	Portugal
Denmark	Salvador
Ecuador	Siam
France	Spain
Germany	Sweden
Great Britain	Switzerland
Guatemala	Turkey
Haiti	United States
Italy	Uruguay
Japan	

#### *Reservations:*

Chile, Cuba, Ecuador, Guatemala, Haiti, Persia, Salvador, Siam, Turkey and Uruguay signed the Convention with reservation of Article 15.

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<sup>1</sup>The deposit of ratifications provided for in Article 52, paragraph 2 (*ante*, p. 13) has not yet taken place.





